



Crl.R.C(MD)No.254 of 2018

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 28.03.2023

CORAM

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

Crl.R.C(MD)No.254 of 2018

Ganesan @ David

... Revision Petitioner/
Appellant/Sole Accused

Vs.

The Inspector of Police,
Mamsapuram Police Station,
Virudhunagar District.
(In Crime No.155 of 2011).

... Respondent/
Respondent/Complainant

PRAYER: Criminal Revision Case filed under Section 397 and 401 of the Code of Criminal Procedure, to call for the records pertaining to the case in C.A.No.65 of 2013 on the file of the Principal District and Sessions Court, Virudhunagar at Srivilliputtur, dated 07.08.2017, confirming the Judgment made in C.C.No.94 of 2011 on the file of the Judicial Magistrate Court No.II, Srivilliputhur, dated 04.04.2013 and set aside the same and allow this Revision.

For Petitioner : Mr.R.Karunanidhi

For Respondent : Mr.K.Sanjai Gandhi
Government Advocate (Crl. Side)



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ORDER

This revision has been filed to set aside the Judgment made in C.A.No.65 of 2013 on the file of the Principal District and Sessions Court, Virudhunagar at Srivilliputtur, dated 07.08.2017, confirming the Judgment made in C.C.No.94 of 2011 on the file of the Judicial Magistrate Court No.II, Srivilliputhur, dated 04.04.2013.

2.The case of the prosecution is that on 01.06.2011 at about 04.00 p.m., when the defacto complainant was working as an Executive Officer in the office of Mamsapuram Town Panchayat, the petitioner went to his office to verify his application submitted under the Right to Information Act. At that juncture, the defacto complainant asked him to affix the proper stamp in the petition. Immediately, he scolded him with filthy language and also tore his application which was kept on the table and he also attempted to attack the defacto complainant. Hence, the complaint.

3.On receipt of the said complaint, the respondent registered the F.I.R in Crime No.155 of 2011 for the offences punishable under Sections 294(b), 353 and 506(2) of I.P.C. After



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completion of the investigation, the respondent filed a final report and the same has been taken cognizance in C.C.No.94 of 2011 on the file of the Judicial Magistrate Court No.II, Srivilliputhur.

4.On the side of the prosecution, they had examined P.W.1 to P.W.8 and marked Exs.P.1 to P.5 and on the side of the accused, no one was examined and Ex.D.1 & Ex.D.2 were marked.

5.On perusal of both the oral and documentary evidence, the trial Court found the accused guilty for the offences under Sections 294(b) and 353 of I.P.C and sentenced him to undergo one month Simple Imprisonment and also to pay a fine of Rs.500/- and in default, he shall undergo two weeks Simple Imprisonment for the offence under Section 294(b) of I.P.C and he was sentenced to undergo six months Simple Imprisonment and also to pay a fine of Rs.1,000/- and in default, he shall undergo two months Simple Imprisonment for the offence under Section 353 of I.P.C and acquitted him for the offence under Section 506(2) of I.P.C. Aggrieved by the same, the petitioner preferred an appeal in C.A.No.65 of 2013 on the file of the Principal District and Sessions Court, Virudhunagar at Srivilliputtur, and the Appellate Court



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dismissed the appeal confirming the conviction and sentence passed by the trial Court. Hence, the Revision.

6.The learned counsel appearing for the petitioner would submit that there were contradictions between P.W.1 to P.W.3. Those contradictions are fatal to the case of the prosecution and as such, failed to prove its case beyond any doubt. According to the case of the prosecution, the petitioner filed an application seeking under the Right to Information Act without fixing the stamp. However, on 01.06.2011 at about 04.00 p.m., the petitioner was provided with information on the documents. There was no such occurrence happened and a false case has been foisted as against the petitioner. If at all the petitioner failed to affix the proper stamp on the application seeking information under the Right to Information Act, the defacto complainant could not have furnished the information under the Right to Information Act. In so far as the offence under Section 294(b) of I.P.C is concerned, the prosecution failed to prove its case beyond any doubt, since no witness had spoken about the words uttered by the petitioner herein. Hence, the petitioner prayed for acquittal from all the charges.



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7.Per contra, the learned Government Advocate (Criminal Side) appearing for the respondent would submit that while P.W.1 was working as an Executive Officer of Mamsapuram Town Panchayat on 01.06.2011 at about 04.00 pm., the petitioner was asked to affix proper stamp on the application seeking for information under the Right to Information Act. Immediately, the petitioner scolded the defacto complainant with filthy language and also threatened him with dire consequences and attempted to attack him with the plastic chair. Immediately, P.W.3 intercepted and dragged the petitioner from outside the office. The prosecution categorically proved its case beyond any doubt. Therefore, the Courts below rightly convicted the petitioner for the offence punishable under Sections 294(b) and 353 of I.P.C. Hence, he prayed for dismissal of the revision.

8.Heard the learned counsel appearing on either side and perused the materials available on record.



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9.The petitioner applied for some information under the Right to Information Act on 27.05.2011 from P.W.1, who was working as an Executive Officer of Mamsapuram Town Panchayat. On 01.06.2011, when P.W.1 asked for the sufficient stamp to be fixed in the application seeking information under the Right to Information Act, the petitioner scolded him with filthy language and also tore his application which was kept in the table of P.W.1. That apart, the petitioner attempted to attack him with the plastic chair. It was prevented by P.W.2 and P.W.3 and lodged the complaint. The respondent police station is situated within 100 meters from the Town Panchayat Office. However, P.W.1 lodged the complaint only at about 08.00 pm., for the occurrence took place at about 04.00 p.m. The prosecution failed to explain the delay in the lodgement of the complaint.

10.On perusal of the complaint lodged by P.W.1, which was marked as Ex.P.1 revealed that the petitioner applied for some information and documents under the Right to Information Act on 27.05.2011. However, the petitioner failed to affix Rs.10/- stamp. Therefore, P.W.1 asked him to affix Rs.10/- stamp in order to furnish information under the Right to Information Act. Immediately,



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the petitioner scolded him with filthy language and also tore the application which was kept on the table of P.W.1. He also attempted to attack him with the plastic chair. It was prevented by P.W.2 and P.W.3, whereas the application submitted by the petitioner under the Right to Information Act was marked as Ex.P.2. It is also seen that it is intact and there is no evidence that it was torn by the petitioner herein. That apart, the petitioner produced the information which was furnished by P.W.1 in favour of the petitioner on the same day, namely on 01.06.2011. On perusal of the reply, dated 01.06.2011, it revealed that he furnished the details which were sought for by the petitioner under the Right to Information Act. If at all, the petitioner failed to affix the stamp fee, P.W.1 could not have furnished the information under the Right to Information Act.

11.Further, in order to attract the offence under Section 294(b) of I.P.C, it is not enough mere utterance of obscene words it is necessary for the prosecution to establish that the utterance of obscene words caused annoyance to others whoever in public place. The prosecution also failed to prove that the words utter by the petitioner caused annoyance to the others, namely P.W.2 and P.W.3.



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12.On perusal of the evidence of P.W.2 and P.W.3 revealed that the prosecution failed to prove the charge for the offence under Section 294(b) of I.P.C. Therefore, the prosecution failed to prove its case beyond any doubt in order to prove the charge for the offences under Sections 294(b) and 353 of I.P.C as against the petitioner. Therefore, this Court finds infirmity in the conviction and sentence imposed by the Courts below and the same is liable to be set aside.

13.Accordingly, the Criminal Revision Case is allowed and the Judgment made in C.A.No.65 of 2013 on the file of the Principal District and Sessions Court, Virudhunagar at Srivilliputtur, dated 07.08.2017, confirming the Judgment made in C.C.No.94 of 2011 on the file of the Judicial Magistrate Court No.II, Srivilliputhur, dated 04.04.2013,21 is set aside. The petitioner/accused is acquitted. Bail bond if any executed by the petitioner/accused shall stand cancelled and a fine amount if paid is ordered to be refunded to the appellant/accused forthwith.

28.03.2023

NCC : Yes/No
Index : Yes/No
Internet : Yes
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To

- 1.The Principal District and Sessions Court,
Virudhunagar at Srivilliputtur.
- 2.The Judicial Magistrate Court No.II,
Srivilliputhur.
- 3.The Inspector of Police,
Mamsapuram Police Station,
Virudhunagar District.
- 4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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G.K.ILANTHIRAIYAN, J.

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Order made in
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